



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

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### Public Notice – Environmental Regulation

**Notice of action:** The State Water Control Board is considering the adoption of a new general permit regulation on discharges resulting from the application of pesticides to surface waters. A regulation is a general rule governing people's rights or conduct that is upheld by a state agency.

**Regulation name:** Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Discharges Resulting from the Application of Pesticides to Surface Waters

**Purpose of notice:** The board is seeking comments through the Department of Environmental Quality on 1) the proposal 2) the costs and benefits of the proposal 3) effects of the proposal on farm and forest land preservation and 4) impacts on small businesses.

**Public comment period:** October 25, 2010 to December 27, 2010

**Public hearing:** Three public hearings will be held and notice of these public hearings will appear on the Virginia Regulatory Town Hall website ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)) and in the Virginia Register of Regulations. The public hearings will be held at the following locations:

- DEQ Tidewater Regional Office at 5636 Southern Blvd., Virginia Beach VA 23462 on Tuesday, November 16, 2010 starting with a Public Information/Question and Answer Session at 6:00 PM and the Public Hearing at 7:00 PM
- DEQ Blue Ridge Regional Office (Roanoke) at 3019 Peters Creek Road, Roanoke, VA 24019 on Thursday, November 18, 2010 starting with a Public Information/Question and Answer Session at 6:00 PM and the Public Hearing at 7:00 PM
- DEQ Piedmont Regional Office at 4949-A Cox Road, Glen Allen, VA 23060 on Tuesday, December 7, 2010 starting with a Public Information/Question and Answer Session at 2:00 PM and the Public Hearing at 3:00 PM

Both oral and written comments may be submitted during the scheduled public hearings.

**Public comment stage:** Notice of Public Comment

**Description of proposed regulation:** The proposed action is to develop and issue a VPDES general permit for discharges from pesticides applied directly to surface waters to control pests, and/or applied to control pests that are present in or over, including near, surface waters. The general permit regulation is needed in order to comply with court ordered requirements for EPA and states to issue NPDES permits for both chemical pesticide applications that leave a residue or excess in water, and all biological pesticide applications that are made in or over, including near, waters of the United States.

Since the Court ruling, EPA collected and analyzed data on pesticide applications, including labeling requirements, pesticide uses, best management practices employed to minimize the impact of pesticides on water quality, and existing state water quality standards for pesticides. EPA proposed a NPDES Pesticides General Permit that will be

issued by them for areas where EPA remains the NPDES permitting authority and for the delegated NPDES states (like Virginia) to use in drafting their permit.

The following pesticide uses will be covered under the General Permit per the court order for operators that apply pesticides in or near water:

- Mosquito and other flying insect pest control
- Aquatic weed and algae control
- Aquatic animal pest control
- Forest canopy pest control

The regulation generally follows EPA's proposed pesticide general permit with definitions, eligibility requirements (authorizations to discharge), technology effluent limitations (integrated pest management considerations), water quality based limitations, monitoring requirements, pesticide discharge monitoring plan, corrective actions, adverse incident and spills and leaks reporting, recordkeeping and annual reporting requirements and conditions applicable to all permits. However, the EPA proposed general permit was adjusted for Virginia users for clarification, flexibility and ease of implementation.

The goal is for the State Water Control Board to develop and issue a VPDES general permit to comply with the court's ruling by April 10, 2011. The decision of the court that pesticide discharges must be permitted by a NPDES permit to comply with the Clean Water Act (in addition to FIFRA requirements) requires that a VPDES permit is needed to legally apply pesticides to surface waters in Virginia and to protect the health, safety and welfare of citizens.

There is no existing regulation.

**Locality particularly affected:**

There are no localities particularly affected by the proposed regulation.

**How to comment:**

The DEQ accepts written comments by e-mail, fax and postal mail. All written comments must include the full name, address and telephone number of the person commenting and be received by DEQ no later than on the last day of the comment period. {Both oral and written comments are accepted at the public meeting. DEQ prefers the submittal of written comments, including a copy of supporting documents or exhibits.} All testimony, exhibits and documents received are part of the public record.

**How a decision is made:**

After comments have been considered, the board will make the final decision. Citizens that submit statements during the comment period may address the board members during the board meeting at which a final decision is made on the proposal.

**To review regulation documents:**

The proposal and an analysis conducted by DEQ (including a statement of purpose, a statement of estimated impacts and benefits of the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches), are available on the Town Hall web site at [www.townhall.virginia.gov](http://www.townhall.virginia.gov) and by contacting the DEQ representative named below.

**Contact for public comments, document requests and additional information:**

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